

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ADVANCED OPTICS ELECTRONICS, INC.,
and BIOMODA, INC.,

Plaintiffs,

v.

No. CIV 07-0855 JB/GBW

LESLIE S. ROBINS, ALVIN D. ROBINS,
and JOHN W. KEARNS,

Defendants.

-- and --

LESLIE S. ROBINS,

Counterclaimant,

vs.

BIOMODA, INC.,

Counter-Defendant.

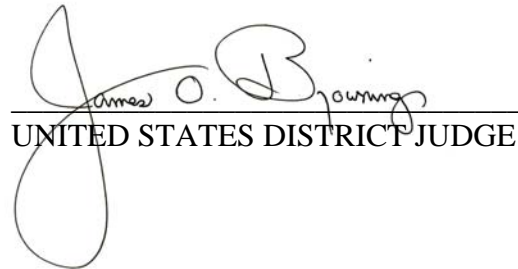
AMENDED FINAL JUDGMENT¹

THIS MATTER comes before the Court on: (i) the Court's Order Dismissing Certain Claims, Counterclaims, and Leslie Robins, filed July 15, 2009 (Doc. 128), which, on joint motion of Plaintiff Biomoda, Inc., and Defendant Leslie S. Robins, dismissed with prejudice L. Robins and all claims by and against him; (ii) Defendant John W. Kearns' demise and termination from this

¹ The Court amends its Final Judgment, filed March 11, 2011 (Doc. 177), to correct an omitted date and docket number. The Court replaces the text: "the Court's Memorandum Opinion and Order, filed March __, 2011 (Doc. __), granting Biomoda's Motion for Entry of Final Judgment," with the text: "the Court's Memorandum Opinion and Order, filed March 11, 2011 (Doc. 175), granting Biomoda's Motion for Entry of Final Judgment."

case;² (iii) the Court's Memorandum Opinion and Order, filed December 16, 2010 (Doc. 132), granting Biomoda partial summary judgment and awarding it damages in the amount of \$35,000.00 with post-judgment interest against Defendant Alvin D. Robins; (iv) the Plaintiff's Motion for Entry of Final Judgment, filed January 20, 2011 (Doc. 163), in which Biomoda requested to voluntarily dismiss with prejudice its pending, unresolved claims and for entry of final judgment in the amount of \$35,000, plus post-judgment interest pursuant to 28 U.S.C. § 1961(a), against A. Robins; and (v) the Court's Memorandum Opinion and Order, filed March 11, 2011 (Doc. 174), granting Biomoda's Motion for Entry of Final Judgment. Because these filings resolve all matters before the Court in this case, the Court will enter final judgment.

IT IS ORDERED that final judgment is entered in this matter, Plaintiff Biomoda Inc. is awarded damages in the amount of \$35,000.00 with post-judgment interest pursuant to 28 U.S.C. § 1961(a) against Defendant Alvin D. Robins.



UNITED STATES DISTRICT JUDGE

² Kearns passed away on May 20, 2009. See Suggestion of Death, filed December 30, 2009 (Doc. 135). Biomoda decided not to substitute Kearns with his estate or another party. Rule 25(a)(1) of the Federal Rules of Civil Procedure provides:

If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.

Fed. R. Civ. P. 25(a)(1). Because Kearns was not substituted, the Clerk of the Court properly terminated Kearns from the case on June 10, 2010.

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